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Implementing the Convention on Cluster Munitions

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Dr Eve Massingham
Regional Legal Adviser
ICRC Nairobi



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The legal obligation

Article 9 of the Convention states:

Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.



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Quick reflections...

- What challenges do you face in implementing the treaty obligations?
 - ▶ Content related:
 - objections to particular provisions?
 - need for more in-depth understanding?
 - ▶ Procedural – capacity, resources, time?
 - ▶ Interest – is this a priority?
 - ▶ A combination of these?





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ICRC Tools

- Legal Advisers
- 2008 Convention on cluster munitions - Factsheet
- 2008 Convention on cluster munitions - Ratification kit
- 2008 Convention on cluster munitions - Model law





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ON INTERNATIONAL HUMANITARIAN LAW

2008 Convention on Cluster Munitions

The Convention on Cluster Munitions is a response to the suffering caused by cluster munitions, which have killed and injured many thousands of civilians in countries where they have been used. In May 2008, 107 States concluded an international treaty prohibiting these weapons. The negotiations that led up to this were part of the "Oslo Process," a Norwegian initiative whose aim was the conclusion of a treaty on cluster munitions by the end of 2008. The Convention was opened for signature on 3 December 2008 and entered into force on 1 August 2010.

An important addition to international humanitarian law (IHL), the Convention reinforces fundamental customary IHL rules that are applicable to all States. These rules require parties to a conflict to distinguish at all times between civilians and combatants, to direct operations only against military objectives and to take constant care to spare civilians and civilian objects. On the basis of this Convention, cluster munitions are considered - like exploding and expanding bullets, chemical weapons, biological weapons, anti-personnel mines, weapons using undetectable fragments and blinding lasers - as weapons prohibited under IHL.

What are cluster munitions?

A cluster munition is a weapon that disperses or releases explosive submunitions: small, unguided explosives or bomblets (each weighing less than 20 kilograms) that are designed to explode prior to, on or after impact. Depending on the model, the number of submunitions dispersed or released by a cluster munition can vary from several dozens to over 600.

Under the terms of the Convention, weapons with fewer than 10 explosive submunitions are not considered to be cluster munitions as long as each submunition weighs more than four kilograms, can detect and engage a specific target object and is equipped with electronic self-destruct and self-deactivating features. The Convention neither prohibits nor restricts the use of these weapons; however, their use is regulated by the

have continued to do so even after the end of fighting.

During armed conflict – Cluster munitions are designed to have a devastating impact in battle; they scatter large numbers of explosive submunitions over vast areas in order to destroy mobile or multiple military targets. Civilian casualties are often high when cluster munitions are used against military objectives in populated areas. Since submunitions are generally unguided, wind and other factors can cause them to strike well outside the target area.

After the end of armed conflict – A high proportion of the submunitions that are dispersed or released fail to detonate as intended, contaminating large areas with deadly explosive ordnance. These devices have killed or injured many thousands of civilians. Their presence makes farming and other essential activities hazardous. It also hinders

sequences of this are grim: death, serious injury, or disability.

The basic obligations of the Convention

States adhering to the Convention must **never under any circumstances use, develop, produce, acquire, stockpile, retain or transfer cluster munitions**. They are also generally prohibited from assisting, encouraging or inducing anyone to undertake any activity prohibited by its provisions.

In addition to the prohibitions mentioned above, States possessing, or affected by, cluster munitions are also required to take action in specific areas: the destruction of stockpiles, the clearance of cluster munitions remnants, and assistance for victims.

A timetable for the destruction of stockpiles – Each State is required - within eight years of



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Loi type

LOI SUR LES ARMES À SOUS-MUNITIONS

Loi de mise en œuvre de la Convention sur les armes à sous-munitions à/au/aux/en [*insérer le nom du pays*].

ORGANISATION DES ARTICLES

TITRE PREMIER - PRÉLIMINAIRE

Article premier. Titre abrégé et entrée en vigueur
Article 2. Interprétation

TITRE II - INTERDICTIONS ET INFRACTIONS

Article 3. Conduite interdite
Article 4. Infractions et peines
Article 5. Application extraterritoriale
Article 6. Exceptions : conduite permise

TITRE III – COLLECTE ET DESTRUCTION DES ARMES À SOUS-MUNITIONS

Article 7. Notification des armes à sous-munitions
Article 8. Destruction des armes à sous-munitions
Article 9. Zones contaminées par les armes à sous-munitions
Article 10. Assistance aux victimes
Article 11. Permission de conserver ou de transférer des armes à sous-munitions

TITRE IV - POUVOIRS DE COLLECTE D'INFORMATIONS

Article 12. Demande d'éclaircissements
Article 13. Obtention de renseignements et de documents
Article 14. Non-respect des engagements et communication de renseignements erronés

TITRE V - APPLICATION DE LA LOI

Article 15. Dispositions réglementaires
Article 16. Caractère exécutoire de la loi pour l'État

ANNEXE :

Convention sur les armes à sous-munitions, adoptée à Dublin le 30 mai 2008.



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Model law

- ICRC has created a text which can serve as a guide
 - ▶ Creates offences for use, stockpiling etc cluster munitions
 - ▶ Provides for surveying and marking cluster munition affected sites
 - ▶ Provides for victim assistance
 - ▶ Provides for permission to retain cluster munitions for training purposes



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Using the model law

Questions:

1. What institutions does this concern?
2. What procedures need to be put in place?
3. What work needs to be done?
4. What education/training/awareness raising would be required? With whom?





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ICRC CCM related activities?

- Regional workshops/meetings for governmental representatives and experts, on CCM promotion and implementation
- Advice to States on implementing legislation (Legal Advisory Service)
- Programs to increase respect for IHL: training of armed forces and armed groups, programs on missing, ...



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Example event



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**Cambodian Institute for Cooperation and Peace CICP
in cooperation with
International Committee of the Red Cross ICRC**

**"The global humanitarian problem of cluster munitions and the
Convention on Cluster Munitions (CCM) as a response"
a debate in a Regional context
Thursday 12 May 2016 Phnom Penh**

**Participation from CICP, ICRC, MOD, National Assembly
Commissions, CMAA, Embassy representatives, mine action and
victim assistance organizations, academics**



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ICRC WEC support

- Collaboration between the AU Commission and the ICRC towards implementation of the AU Mine Action and Explosive Remnants of War (ERW) Strategic Framework.
 - ▶ Together with other international partners
 - ▶ The AU Commission and ICRC have extended operational and capacity building assistance to AU Member States in the areas of explosive ordnance disposal, program and quality management, and in victims' assistance.
 - ▶ Includes facilitating cross-border mine action operations, fostering inter-African cooperation and building the capacity of AU Peace Support Operations to deal with explosive hazards in mission areas.



Practical exercise in preparation for the actual demolition at Entoto demining training center. CC BY-NC-ND / ICRC / Alemayehu Takele



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Questions? Support? ICRC WEC Service

John Sorbo

Regional Weapon Contamination Advisor for
Africa

International Committee of the Red Cross
Nairobi Regional Delegation

Email: jsorbo@icrc.org



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Questions? Support?

ICRC Legal Advisory Service

East and Horn of Africa: Eve Massingham

emassingham@icrc.org

Southern Africa: Sarah Swart

sswart@icrc.org

North Africa: Omar Mekky

omekki@icrc.org

Central Africa: Claudine Mushobekwa

cmushobekwa@icrc.org

West Africa: Marie-Louise Tougas

mtougas@icrc.org